



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

URGENT LEGAL MATTER

**HAND DELIVERED and
CERTIFIED MAIL NO. P 347 537 166
RETURN RECEIPT REQUESTED**

October 25, 1994

Mr. J.S. Brattain
a/k/a Jean Stuart Brattain
15209 Cimarron Avenue
Gardena, CA 90249

95-05

Re: Administrative Order No. 95-05 pursuant
to 42 U.S.C. Section 9606

The enclosed Administrative Order is issued by the United States Environmental Protection Agency (EPA), pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. Section 9606, to prevent or mitigate immediate and significant risk of harm to human health and the environment at 690 Mozumdar Drive, Cedar Pines Park, CA 92322 (the Site). This Order requires you to take immediate actions to contain and prevent the release and potential release of hazardous substances from the Site.

Your intention to conduct the response actions, or your refusal to do so, should be conveyed within forty-eight hours from receipt of this order to Gavin McCabe of the EPA Office of Regional Counsel at (415) 744-1334. Failure to respond within this time frame will be construed as a refusal to comply with the Order. EPA may then enter the Site to initiate response actions and seek reimbursement from you for its costs.

In your reply, please tell us the name, address, and telephone number of the person to whom EPA should direct communication regarding this matter.

This letter also provides formal notice of your potential liability under Section 107(a) of CERCLA. EPA has documented the release and/or threatened release of hazardous substances, pollutants, or contaminants at the Site described above. The hazardous substances in question include, but are not limited to DDT, xylene, and methyl ethyl ketone. Previously, on September 30, 1994, EPA sent you formal notice of your potential liability with respect to this Site and requested that you conduct certain response activities. The U.S Post Office has informed EPA that you failed to accept the September 30, 1994 letter despite receiving written notification about the letter from the Post Office on October 5, 1994 and October 11, 1994.

This Site is within the jurisdiction of EPA and the EPA On-Scene Coordinator (OSC), who is charged with initiating a response action or coordinating, directing, and reviewing the work of any other responders to insure compliance with the NCP. The OSC for this Site is Mr. Daniel Shane. Pursuant to its authority under the and the National Contingency Plan (NCP), 40 CFR Part 300, EPA evaluates whether responsible parties or other agencies are properly responding to such releases or threatened releases.

Responsible parties under CERCLA include current and former owners and operators of a site, persons who arranged for disposal of hazardous substances at a site (generators), and persons who accept hazardous waste for transport to a site. We believe that you may be a Potentially Responsible Party (PRP) as the owner and operator of the Site and as a generator of hazardous substances at the Site. Before EPA initiates a response, PRPs, where practicable, are informed of the interest of EPA and offered the opportunity to conduct the response. If EPA expends public funds for a response action at this Site, you as a PRP may be held liable for all government costs, plus all penalties available to EPA under law for your failure to comply with EPA's Order.

If you have any questions regarding legal authorities, rights, or sanctions regarding this matter, contact Gavin McCabe at the above telephone number or in writing at the following address:

Gavin McCabe, Assistant Regional Counsel
U.S. Environmental Protection Agency (RC-3-1)
75 Hawthorne Street
San Francisco, CA 94105
Tel: (415) 744-1334
Fax: (415) 744-1041

If you have any technical or operational questions, contact:

Daniel Shane, On-Scene Coordinator
(415) 744-2286
or
William J. Weis III, Removal Enforcement Investigator
(415) 744-2297

Thank you for your time and attention.

Sincerely,

Heidi Taka

Heidi Jeff Zelikson, Director
Hazardous Waste Management Division

enclosure

cc: Jerry Wong, REHS III, SBC DEHS
Ronnie Bromberg, REHS II, SBC DEHS
Kevin Yamata, DTSC

1
2 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
3 REGION IX
4

5 IN THE MATTER OF:) Order No. 95-05
6)
7 Crestline DRMO Site) ADMINISTRATIVE ORDER
8) PURSUANT TO SECTION 106
9 Respondent:) OF THE COMPREHENSIVE
10 Jean Stuart Brattain) ENVIRONMENTAL RESPONSE,
11 a/k/a J.S. Brattain) COMPENSATION, AND
12) LIABILITY ACT OF 1980
13) as amended, 42 U.S.C.
14) Section 9606(a)
15 _____)

16
17 PREAMBLE
18

19 1. This Administrative Order ("Order") is issued to
20 Jean Stuart Brattain, a/k/a J.S. Brattain ("Respondent"),
21 pursuant to the authority vested in the President of the United
22 States by Section 106(a) of the Comprehensive Environmental
23 Response, Compensation, and Liability Act of 1980, 42 U.S.C.
24 Section 9606(a), as amended by the Superfund Amendments and
25 Reauthorization Act of 1986, Pub. L. 99-499 ("CERCLA"), delegated
26 to the Administrator of the United States Environmental
27 Protection Agency ("EPA") by Executive Order No. 12580, January
28 23, 1987, 52 Federal Register 2923, further delegated to the EPA
Regional Administrators by EPA Delegation Nos. 14-14-A and
14-14-B, and further redelegated to the Director, Hazardous Waste
Management Division by Region IX Delegations 1290.41 and 1290.42.

29 2. The State of California has been notified of the
30 issuance of this Order as required by Section 106(a) of CERCLA,
31 42 U.S.C. Section 9606(a).
32

1 3. This Order requires the Respondent to undertake and
2 complete removal activities to abate an imminent and substantial
3 endangerment to the public health and welfare or the environment
4 that may be presented by the actual or threatened release of
5 hazardous substances at or from the Crestline DRMO Site ("the
6 Site" or "the facility"), 690 Mozumdar Drive, Cedar Pines Park,
7 San Bernardino County, California.

8 4. EPA has designated an On-Scene Coordinator for the
9 Site, pursuant to the National Contingency Plan ("NCP") 40 C.F.R.
10 Part 300.

11 FINDINGS OF FACT

12 Based on available information, including the Administrative
13 Record in this matter, EPA hereby finds:

14 5. Site Location

15 The Crestline DRMO Site is located at 690 Mozumdar Drive,
16 Cedar Pines Park, San Bernardino County, California. The Legal
17 description of the Site is NW 1/4 Section 17; Township 2 North:
18 Range 4 West. The San Bernardino County Assessor's Parcel Number
19 for the Site is 0342011030000.

20 6. Site Characteristics

21 The Site is situated in a heavily wooded, residentially-
22 zoned area, at an elevation of approximately 5,000 feet. There
23 is a small uninhabited cabin on the Site. The Site appears to be
24 abandoned and is strewn with inoperable vehicles and equipment,
25 trash, debris, potential asbestos-containing piping, and
26 approximately 300 containers of various sizes. The containers
27 are scattered haphazardly within a fenced area with approximate
28 dimensions of 75 feet by 250 feet. Some of the containers are

1 partially buried, others are stored on bare soil and most are
2 exposed to the elements. The containers exhibit various degrees
3 of corrosion and some have corroded so badly that they are
4 leaking. Suspected contents of the containers include paint,
5 solvents, oil, gasoline, diesel fuel, grease, hydraulic fluid,
6 miscellaneous petroleum-based materials and pesticides.
7 Approximately one third (1/3) of the containers are marked with
8 military specifications indicating that they originated from the
9 Defense Reutilization and Marketing Organization ("DRMO").

10 7. Respondent

11 Mr. J.S. Brattain, a/k/a Jean Stuart Brattain, is referred
12 to herein as the Respondent. Mr. Brattain holds title to the
13 property located at 690 Mozumdar Drive, Cedar Pines Park, San
14 Bernardino County, California, referred to herein as the Site.
15 According to San Bernardino County Records, Mr Brattain has owned
16 this property since at early as May 6, 1982. EPA believes that
17 Mr. Jean Stuart Brattain's current address is 15209 Cimarron
18 Avenue, Gardena, California, 90249. EPA attempted to contact Mr.
19 Brattain via a certified mail letter dated September 30, 1994 to
20 notify him of his potential CERCLA liability regarding the Site.
21 Mr. Brattain did not accept delivery of the letter.

22 8. Incident / Release Characteristics

23 On May 17, 1994, the San Bernardino County Department of
24 Environmental Health Services ("SBDEHS") received a complaint
25 concerning a storage yard with numerous containers of unknown
26 substances, tanks, trash, waste oils, and flammable liquids on
27 the Respondent's premises. SBDEHS sent the Respondent "Notices
28 of Violation" by U.S. Certified Mail on three separate occasions:

1 May 27, 1994, July 7, 1994, and August 2, 1994. These attempts
2 to notify the Respondent were unsuccessful.

3 On September 8, 1994, SBDEHS sent the Respondent by U.S.
4 Certified Mail a "Notice to Abate" the containers of hazardous
5 materials from his property. This attempt to notify the
6 Respondent was also unsuccessful. An additional SBDEHS attempt
7 to contact the Respondent in person at his residence in Gardena,
8 California also proved unsuccessful. The Respondent is not
9 listed in the telephone directories for either San Bernardino or
10 Los Angeles Counties.

11 In early September 1994, the SBDEHS requested EPA assistance
12 in evaluating potential threats posed by the storage of
13 containers of hazardous materials on the Site. On September 16,
14 1994, EPA On-Scene Coordinator Daniel Shane tasked the Technical
15 Assistance Team ("TAT") to assess the Site.

16 On September 23, 1994 TAT representatives and SBDEHS
17 representatives met at the Site for the purpose of conducting a
18 site assessment. SBDEHS had previously procured an inspection
19 warrant for the assessment. TAT inspectors observed the
20 conditions detailed in Paragraph 6 above. In addition, SBDEHS
21 representatives provided TAT with the sampling results from an
22 August 31, 1994 inspection conducted by SBDEHS. Several samples
23 had been submitted for laboratory analyses, including flashpoint
24 analyses using EPA Method 1010. The results of the flashpoint
25 analyses are presented in Table 1 below. A substance with a
26 flashpoint less than 100 degrees fahrenheit is considered highly
27 flammable while a substance having a flashpoint greater than 100
28

1 but less than 200 degrees fahrenheit is considered moderately
2 flammable.

3 Table 1

4 Sample I.D.	5 Temperature (Degrees 6 Fahrenheit)
7 98-1	138
8 98-2	84
9 98-4	>167
10 98-6	81

12
13 9. Quantities and Types of Substance Present

14 After surveying the property, TAT conducted a cursory
15 inventory. This inventory is presented in Table 2 below. Most
16 of the containers are full but unopened. Some containers have
17 labels identifying their contents but many do not. As stated
18 previously, TAT identified approximately 300 containers strewn
19 haphazardly around the Site, mostly within a fenced area with
20 approximate dimensions of 75 feet by 250 feet. Suspected
21 contents of the containers include paint, solvents, oil,
22 gasoline, diesel fuel, grease, hydraulic fluid, miscellaneous
23 petroleum-based materials and pesticides. The results of the
24 container survey are presented in Table 2 below.

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27 //

Table 2

Container Size	Estimated Quantity
1 Gallon	125
5 Gallon	125
30 Gallon	15
55 Gallon	40
Pressure Cylinders	5

10. Threats to Public Health and Welfare

Conditions at the Site were evaluated using the criteria set forth in §300.415(b) of the NCP. Several of the chemicals identified at the Site, including DDT, xylene, and methyl ethyl ketone are "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and 40 CFR Section 302.4. The unstable condition of the containers and of the hazardous substances, pollutants or contaminants that have been preliminarily identified present an unacceptable risk of a fire and explosion and the resultant release of toxic gasses.

The Site is located within a residential neighborhood and there are a number of pathways and mechanisms by which nearby residents could be exposed to chemicals from the Site. Below is an analysis of conditions at the Site under the NCP criteria for removals:

1 1. Actual or potential exposure to hazardous substances or
2 pollutants or contaminants by nearby populations or the food
3 chain.

4 The Site poses a significant threat to nearby populations
5 through direct contact by authorized or unauthorized
6 visitors to the Site or through fire and explosion and the
7 resultant release of toxic gasses.

8 2. Actual or potential contamination of drinking water
9 supplies.

10 It is unlikely that there is currently groundwater
11 contamination at the Site. However, the chemicals at the
12 Site are highly mobile and it is possible that chemicals
13 could migrate through soil and eventually result in
14 groundwater contamination.

15 3. Hazardous substances or pollutants or contaminants in
16 drums, barrels, tanks, or other bulk storage containers that
17 may pose a threat of release.

18 Containers at the Site are stored in an insecure manner.
19 Many of the containers are in a deteriorated condition and
20 pose an imminent threat of release either through leakage of
21 liquids or through release via fire, explosion or
22 earthquake. Some leakage has already been observed. The
23 Site is located within an area that is seismically active
24 and is subject to extreme weather conditions.

25 4. High levels of hazardous substances or pollutants or
26 contaminants in soils at or near the surface, that may
27 migrate.

1 EPA has not yet documented soil contamination at the Site.
2 However, TAT observed a few leaking containers and many
3 others are in a very deteriorated condition. If left to
4 further deteriorate, these containers would eventually lose
5 their integrity and leak their contents onto the soil.
6 These hazardous substances are highly mobile in the
7 environment and could migrate offsite. Contaminated soil
8 could become airborne and blow off-Site.

9 **5. Threat of fire or explosion.**

10 There is a strong threat of fire or explosion at the Site
11 due to the presence of flammable and potentially shock
12 sensitive material. Table 1 above shows the ignitability
13 characteristic present in some of the substances stored on
14 the Site. The Site is located in a heavily wooded area
15 where considerable amounts of natural fuel exist. Local
16 flora has suffered under severe drought conditions for
17 almost a decade and a fire would spread rapidly.

18 **11. Threats to the Environment**

19 The poor condition of the containers and the nature of the
20 chemicals at the Site pose a threat of fire, spillage, and
21 migration of the chemicals to the surrounding wooded area. A
22 fire at the Site could release potentially toxic fumes that would
23 adversely effect the local population and environment. In
24 addition, a fire could quickly spread to and destroy the
25 surrounding woods. Spillage of hazardous substances onto Site
26 soils could result in contamination of the soils and eventually
27 degradation of groundwater resources. These hazardous substances
28 are highly mobile in the environment and could migrate offsite.

1 19. The actual or threatened release of hazardous
2 substances at and from the Site may present an imminent and
3 substantial endangerment to the public health or welfare or the
4 environment.

5 20. The actions required by this Order, if properly
6 performed, are consistent with the National Contingency Plan
7 ("NCP"), 40 CFR Part 300 and CERCLA, and are appropriate to
8 protect the public health or welfare or the environment.

9 21. The conditions present at the Site constitute a
10 threat to public health or welfare or the environment based upon
11 consideration of the factors set forth in the NCP at 40 CFR
12 section 300.415(b). These factors are detailed under paragraph
13 10 above.

14 ORDER

15 Based upon the foregoing Findings, Conclusions, and
16 Determinations, and pursuant to Section 106(a) of CERCLA, 42
17 U.S.C. Section 9606(a), it is hereby Ordered that the Respondent
18 undertake the following actions under the direction of EPA's On-
19 Scene Coordinator.

20 22. Upon receipt of this Order, the Respondent shall
21 provide twenty-four (24) hour security at the Site which meets
22 with EPA approval.

23 23. The Respondent shall restrict access to the Site
24 and shall not allow any materials, equipment, or any other item
25 to be removed from the Site without prior EPA approval.

26 24. Within fourteen (14) calendar days after the
27 effective date of this Order, the Respondent shall submit to EPA
28 for approval, a Work Plan for the removal activities ordered as

1 set forth in the next paragraph. The Work Plan shall provide a
2 concise description of the activities to be conducted to comply
3 with the requirements of this Order, and shall include a proposed
4 schedule for implementing and completing the activities. The
5 Work Plan shall be reviewed by EPA, which may approve,
6 disapprove, require revisions, or modify the Work Plan. The
7 Respondent shall implement the Work Plan as finally approved by
8 EPA. Once approved, the Work Plan shall be deemed to be
9 incorporated into and made a fully enforceable part of this
10 Order.

11 25. The Work Plan shall contain a site safety and
12 health plan, a sampling and analysis plan, and a schedule of the
13 work to be performed. The site safety and health plan shall be
14 prepared in accordance with EPA's Standard Operating Safety
15 Guide, dated November 1984 and updated July 1988, and with the
16 Occupational Safety and Health Administration ("OSHA")
17 regulations applicable to Hazardous Waste Operations and
18 Emergency Response, 29 CFR Part 120. The Work Plan and other
19 submitted documents shall demonstrate that the Respondent can
20 properly conduct the actions required by this Order.

21 26. The Respondent shall retain a contractor qualified
22 to undertake and complete the requirements of this Order and
23 shall notify EPA of the name of such contractor within five (5)
24 calendar days of the effective date of this Order. EPA retains
25 the right to disapprove of any, or all, of the contractors and/or
26 subcontractors retained by the Respondent. In the event EPA
27 disapproves of a selected contractor, the Respondent shall retain
28 a different contractor to perform the work, and such selection

1 shall be made within two (2) business days following EPA's
2 disapproval.

3 27. Within sixty (60) calendar days after EPA approval
4 of the Work Plan, the Respondent shall fully implement the Work
5 Plan as approved or modified by EPA. Failure of the Respondent
6 to properly implement all aspects of the Work Plan shall be
7 deemed to be a violation of the terms of this Order. The Work
8 Plan shall require the Respondent to perform, and complete, at a
9 minimum, the following removal activities:

10 a. Containerization and segregation of hazardous
11 substances located within the fenced area and the
12 immediate area around the cabin. Hazardous substances
13 include, but are not limited to, drums and containers
14 containing flammable fuels, solvents and waste oils,
15 lead-based paints and pesticides.

16 B. Removal of any and all hazardous wastes to RCRA
17 permitted treatment, storage, disposal or recycling
18 facilities (TSDRFs). The selection of transporters and
19 TSDRFs must be pre-approved by the EPA On-Scene
20 Coordinator. All removal work must be performed by a
21 qualified environmental cleanup contractor.

22 C. Cleanup and properly disposal of any spillage
23 resulting from the storage, transfer, or movement of
24 hazardous substances. All areas of contamination must
25 be removed or decontaminated.

26 D. Maintenance of 24-hour security until all
27 hazardous substances are properly containerized and
28

1 stored and any hazardous wastes are removed from the
2 facility.

3 E. Documentation of off-site disposal of hazardous
4 wastes including, but not limited to, manifests, waste
5 profiles and analytical data, disposal costs and
6 pricing data, Certificates of Destruction, contractor
7 agreements, and Extremely Hazardous (EH) Permits.

8 28. The Respondent shall provide the EPA On-Scene
9 Coordinator with written weekly summary reports by fax or
10 overnight mail. These reports should contain a summary of the
11 previous week's activities and planned up-coming events.

12 29. EPA shall be informed at least forty-eight (48)
13 hours prior to any on-Site work.

14 30. All sampling and analysis shall be consistent with
15 the "Quality Assurance/Quality Control Guidance for Removal
16 Activities": "Sampling QA/QC Plan and Data Validation
17 Procedures," EPA OSWER Directive 9360.4-01, dated April 1990.

18 31. Any hazardous substance, pollutant, or contaminant
19 transferred off-Site as a result of this Order must be taken to a
20 facility acceptable under the EPA Off-Site Rule as set forth in
21 Section 300.440 of the NCP.

22 32. Nothing contained herein shall be construed to
23 prevent EPA from seeking legal or equitable relief to enforce the
24 terms of this Order, or from taking other legal or equitable
25 action as it deems appropriate and necessary, or from requiring
26 the Respondent in the future to perform additional activities
27 pursuant to CERCLA, 42 U.S.C. Section 9601, et seq., or any other
28 applicable law.

1 33. The provisions of this Order and the directions of
2 the EPA On-Scene Coordinator shall be binding on the employees,
3 agents, successors, and assigns of the Respondent.

4 34. Except where this Order specifically provides
5 otherwise, its obligations shall be effective three (3) calendar
6 days following the effective date of this Order unless a
7 conference is requested as provided below. If a conference is
8 requested, this Order shall be effective on the third calendar
9 day following the day of the conference unless modified in
10 writing by EPA.

11 35. The Respondent shall submit a final report
12 summarizing the actions taken to comply with this Order. The
13 report shall contain, at a minimum: identification of the
14 facility, a description of the locations and types of hazardous
15 substances encountered at the facility upon the initiation of
16 work performed under this Order, a chronology and description of
17 the actions performed (including both the organization and
18 implementation of response activities), a listing of the
19 resources committed to perform the work under this Order
20 (including financial, personnel, mechanical, and technological
21 resources), identification of all items that affected the actions
22 performed under the Order and discussion of how all problems were
23 resolved, a listing of quantities and types of materials removed
24 from the facility, a discussion of removal and disposal options
25 considered for any such materials, a listing of the ultimate
26 destination of those materials, and a presentation of the
27 analytical results of all sampling and analyses performed and
28 accompanying appendices containing all relevant paperwork accrued

1 during the action (e.g., manifests, invoices, bills, contracts,
2 permits). The final report shall also include an affidavit from
3 a person who supervised or directed the preparation of that
4 report. The affidavit shall certify under penalty of law that
5 based on personal knowledge and appropriate inquiries of all
6 other persons involved in preparation of the report, the
7 information submitted is true, accurate, and complete to the best
8 of the affiant's knowledge and belief. The report shall be
9 submitted within thirty (30) calendar days of completion of the
10 work required by EPA.

11 36. All notices, reports, and requests for extensions
12 submitted under the terms of this Order shall be sent by
13 certified mail, return receipt requested, and addressed to the
14 following:

15 one copy Daniel M. Shane
16 On-Scene Coordinator
17 U.S. EPA, Emergency Response Section
18 75 Hawthorne Street
19 San Francisco, CA 94105
20 (415) 744-2286

21 one copy Gavin McCabe
22 Assistant Regional Counsel (RC-3-1)
23 U.S. Environmental Protection Agency
24 75 Hawthorne Street
25 San Francisco, CA 94105
26 (415) 744-1334

27 37. If any provision of this Order is deemed invalid
28 or unenforceable, the balance of this Order shall remain in full
force and effect.

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38. The effective date of this Order shall be the date of signature by the Director, Hazardous Waste Management Division.

39. Within five (5) calendar days of the effective date of this Order, the Respondent shall designate a Project Coordinator. To the greatest extent possible, the Project Coordinator shall be present on Site or readily available during Site work. EPA has designated Daniel M. Shane as its On-Scene Coordinator ("OSC"). The OSC and the Project Coordinator shall be responsible for overseeing the implementation of this Order. To the maximum extent possible, communication between the Respondent and EPA, including all documents, reports, approvals, and all other correspondence concerning the activities relevant to this Order, shall be directed through the OSC and the Project Coordinator.

40. EPA and the Respondent shall each have the right to change their respective designated OSC or Project Coordinator. EPA shall notify the Respondent, and the Respondent shall notify EPA, as early as possible before such a change is made, but in no case less than twenty-four (24) hours before such a change. Notification may initially be verbal but shall promptly be reduced to writing.

41. The EPA OSC shall have the authority vested in an On-Scene Coordinator by the NCP, 40 CFR Part 300, as amended, including the authority to halt, conduct, or direct any work

1 required by this Order, or to direct any other response action
2 undertaken by EPA or the Respondent at the facility.

3 42. No extensions to the above time frames shall be
4 granted without sufficient cause. All extensions must be
5 requested, in writing, and shall not be deemed accepted unless
6 approved, in writing, by EPA.

7 43. All instructions by the EPA OSC or his designated
8 alternate shall be binding upon the Respondent as long as those
9 instructions are not clearly inconsistent with the National
10 Contingency Plan.

11 ACCESS

12 44. To the extent that the facility or other areas
13 where work under this Order is to be performed is owned by, or in
14 possession of, someone other than the Respondent, the Respondent
15 shall obtain all necessary access agreements. In the event that
16 after using his best efforts the Respondent is unable to obtain
17 such agreements, the Respondent shall immediately notify EPA.

18 45. The Respondent shall provide access to the Site to
19 EPA employees, contractors, agents, and consultants at reasonable
20 times, and shall permit such persons to be present and move
21 freely in the area in order to conduct inspections, including
22 taking photographs and videotapes of the Site, to do cleanup/
23 stabilization work, to take samples to monitor the work under
24 this Order, and to conduct other activities which EPA determines
25 to be necessary.

26 NOTICE OF INTENT TO COMPLY

27 46. On or before two (2) calendar days of the
28 effective date of this Order, the Respondent shall provide

1 notice, verbally or in writing, to EPA stating their intention to
2 comply with the terms of this Order. Oral notification must be
3 followed in writing within two (2) calendar days. In the event
4 the Respondent fails to provide such notice, the Respondent shall
5 be deemed not to have complied with the terms of this Order.

6 RECORD RETENTION

7 47. The Respondent shall retain copies of all records
8 and files relating to hazardous substances found on the Site for
9 six years following completion of the activities required by this
10 Order and shall make them available to EPA prior to the
11 termination of the removal activities under this Order.

12 ACCESS TO ADMINISTRATIVE RECORD

13 48. The Administrative Record supporting the selection
14 of the response action for this Site is available for review on
15 normal business days between the hours of 9:00 a.m. and 5:00 p.m.
16 in the Superfund Records Center, United States Environmental
17 Protection Agency, Region IX, 75 Hawthorne Street, 9th Floor, San
18 Francisco, California. Please contact Susan Daves at (415) 744-
19 2154 to review the Administrative Record. An index of the
20 Administrative Record is attached hereto.

21 OPPORTUNITY TO CONFER

22 49. With respect to the actions required above, the
23 Respondent may within twenty-four (24) hours after issuance of
24 this Order, request a conference with EPA. Any such conference
25 shall be held within three (3) calendar days from the date of
26 request unless extended by mutual agreement of the parties. At
27 any conference held pursuant to the request, the Respondent may
28 appear in person, or be represented by an attorney or other

1 representative. If the Respondent desires such a conference, the
2 Respondent shall contact Gavin McCabe, Assistant Regional
3 Counsel, at (415) 744-1334.

4 50. If such a conference is held, the Respondent may
5 present any evidence, arguments, or comment regarding this Order,
6 its applicability, any factual determinations upon which the
7 Order is based, the appropriateness of any action which the
8 Respondent is ordered to take, or any other relevant and material
9 issue. Any such evidence, arguments, or comments should be
10 reduced to writing and submitted to EPA within two (2) calendar
11 days following the conference. If no conference is requested,
12 any such evidence, arguments or comments must be submitted in
13 writing within three (3) calendar days following the effective
14 date of this Order. Any such writing should be directed to Gavin
15 McCabe, Assistant Regional Counsel, at the address cited above.

16 51. The Respondent is hereby placed on notice that EPA
17 will take any action which may be necessary in the opinion of EPA
18 for the protection of public health and welfare and the
19 environment, and the Respondent may be liable under Section
20 107(a) of CERCLA, 42 U.S.C. Section 9607(a), for the costs of
21 those government actions.

22 GOVERNMENT NOT LIABLE

23 52. The United States Government and its employees and
24 other representatives shall not be liable for any injuries or
25 damages to persons or property resulting from the acts or
26 omissions of Respondent, his employees or other representatives
27 caused by carrying out this Order. For the purposes of this
28

1 Order, the United States Government is not a party to any
2 contract with the Respondent.

3 PENALTIES FOR NONCOMPLIANCE

4 53. The Respondent is advised pursuant to Section
5 106(b) of CERCLA, 42 U.S.C. Section 9606(b), that willful
6 violation or subsequent failure or refusal to comply with this
7 Order, or any portion thereof, may subject the Respondent to a
8 civil penalty of up to \$25,000 per day for each day in which such
9 violation occurs, or such failure to comply continues. Failure
10 to comply with this Order, or any portion thereof, without
11 sufficient cause may also subject the Respondent to liability
12 for punitive damages in an amount three times the amount of
13 any cost incurred by the government as a result of the failure of
14 the Respondent to take proper action, pursuant to Section
15 107(c)(3) of CERCLA, 42 U.S.C. Section 9607(c)(3).

16
17 THIS ORDER IS ISSUED on this 25th day of October, 1994.

18 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

19
20 By: Jeff Zelikson
21 Jeff Zelikson, Director
22 Hazardous Waste Management Division
United States Environmental
Protection Agency Region IX

Contacts:

Daniel M. Shane
On Scene Coordinator
Emergency Response Section (H-8-3)
United States Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105
(415) 744-2286

William J. Weis III
Investigations and Enforcement
Removal Enforcement Section (H-8-4)
United States Environmental Protection Agency
75 Hawthorne Street
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ATTACHMENT A

INDEX TO ADMINISTRATIVE RECORD

1. May 27, 1994, San Bernardino County Department of Environmental Health Service (SBDEHS) Notice of Violation.
2. July 07, 1994, SBDEHS Notice of Violation.
3. August 02, 1994, SBDEHS Notice of Violation.
4. September 08, 1994, SBDEHS Notice to Abate.
5. August 29, 1994 SBDEHS Inspection Warrant with
 - A) Affidavit in Support of the Inspection Warrant
 - B) Declaration Re execution of Inspection Warrant and return of Inspection Warrant.
6. September 20, 1994 SBDEHS Inspection Warrant with Affidavit in Support of the Inspection Warrant.
7. August 29, 1994 TAT Draft Crestline DRMO Site Assessment Report #1, Cedar Pine Park, San Bernardino County, California
8. October 10, 1994 SBDEHS Abatement Warrant with Attachments.
9. October 24, 1994 Action Memo.
10. September 30, 1994 EPA certified mail General Notice letter to J.S. Brattain.